

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB3915

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 3974*

House Bill No. 3915

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 7, Part 1, is

amended by adding the following language as a new appropriately designated section:

§ 49-7-1__.

(a) Each public and private institution of higher education in the state that has student residential computer networks shall:

(1) Adopt and reasonably implement a policy defining computer and network usage and ethics that applies to students, staff, and faculty that clearly describes and prohibits the infringement of copyrighted works over the school's computer and network resources, and that details the penalties for infringement provided under both federal law and the school code;

(2) Make reasonable efforts to post signs in appropriate locations to remind students, staff, and faculty of such policy; and

(3) Subject to subsection (b), reasonably attempt to prevent the infringement of copyrighted works over the institution's computer and network resources, if such institution receives fifty (50) or more legally valid notices of infringement as prescribed by the Digital Millennium Copyright Act of 1998 within the preceding year.

(b) Nothing in this section shall:

(1) Prohibit the non-infringing use of copyrighted material by students, staff, and faculty;

(2) Restrict an educational institution's use of copyrighted material under the provisions of 17 U.S.C. § 107;

(3) Waive the protections available to Internet service providers under 17 U.S.C. § 512;

(4) Subject public institutions of higher education to any suit whether for monetary damages, injunctive relief, or any cause of action whatsoever;

(5) Be deemed or construed to waive or abrogate in any way the sovereign immunity of the state, the public institutions of higher education, or any officer or employee of the state or the public institutions of higher education or waive or abrogate in any way the immunity of the state, the public institutions of higher education, or any officer or employee of the state or the public institution of higher education from suit under the 11th Amendment to the Constitution of the United States.

(c) By April 1, 2009, the Tennessee Board of Regents, the University of Tennessee, and the Tennessee Independent Colleges and Universities Association shall provide a report to the Tennessee Higher Education Commission on the reasonable efforts their institutions have taken to attempt to deter infringement of copyrighted works over the school's computer and network resources. Thereafter, if an institution has fifty (50) or more legally valid notices of infringement as prescribed by the Digital Millennium Copyright Act of 1998 within the preceding year, the Tennessee Board of Regents, the University of Tennessee, and the Tennessee Independent Colleges and Universities Association shall provide a report to the Tennessee Higher Education Commission which details the actions taken by such institution including but not limited to the implementation of technology based deterrents pursuant to subsection (a)(3).

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.